

REGIONAL CONDITIONS FOR SOUTH CAROLINA

REGIONAL GENERAL CONDITIONS

The following Regional General Conditions apply to each of the nationwide permits unless otherwise stated.

A. Terminology.

The terminology used in Regional Conditions for South Carolina are in accordance with the Charleston District Standard Operating Procedure (SOP) titled *Terminology and Definitions*, unless otherwise stated. For ready reference, selected definitions and certain additional terms are defined below. The applicable source for each definition is given. Where the cited source is "Regional" the term given is a regional definition or adaptation for activities in South Carolina.

Adjacent means bordering, contiguous, or neighboring. Wetlands separated from other waters of the United States by man-made dikes or barriers, natural river berms, beach dunes and the like are adjacent wetlands. (Source: 33 CFR 328)

Aquatic site means any Water of the United States including tidal waters, rivers, lakes, streams, ponds, and special aquatic sites. (Source: 33 CFR 328 and Regional)

Contaminant means a chemical or biological substance in a form that can be incorporated into, onto, or be ingested by and that harms aquatic organisms, consumers of aquatic organisms, or users of the aquatic environment, and includes but is not limited to the substances on the 307(a)(1) list of toxic pollutants. (Source: 40 CFR 230)

Delineation of aquatic sites means a drawing of a defined area showing boundary lines for aquatic sites within the defined area. Delineations must be prepared in accordance with the Corps of Engineers current methods. The Corps' current method for preparing delineations of wetlands is given in the document titled "Corps of Engineers Wetlands Delineation Manual" (Technical Report Y-87-1) which is available for sale to the public by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402. For information regarding current methods for preparing delineations of other categories of aquatic sites (i.e. non-wetlands) contact the Charleston District Corps of Engineers. (Source: Webster, CECW-OR Q&As)

Impacts and *effects* are defined to be synonymous and include ecological, aesthetic, historic, cultural, economic, social, or health effects, whether direct, indirect, or cumulative. Further, *effects* include:

- Direct effects, which are caused by the action and occur at the same time and place.
- Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. (Source: 40 CFR 1508)

Mitigate means to cause to become less harsh or hostile, or to make less severe. Mitigation includes the categories listed below. (Source: 40 CFR 1508 and Webster)

- Avoiding the impact altogether by not taking a certain action or parts of an action.
- Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- Rectifying the impact by repairing, rehabilitating, or restoring the effected environment.
- Reducing or eliminating the impact over time by preservation and maintenance operations.
- Compensating for the impact by replacing or providing substitute resources or environments.

Practicable means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes. (Source: 40 CFR 231)

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Single and complete project is defined to mean the total (i.e. overall) project proposed or accomplished by one owner or developer or partnership or other association of owners or developers. As a regional condition and for purposes of compliance with requirements given by the State of South Carolina, the term shall include all land within the project boundary under single ownership. (Source: 33 CFR 330 and Regional)

Special aquatic site means wetlands, mud flats, vegetated shallows, coral reefs, riffle and pool complexes, sanctuaries, and refuges. (Source: 40 CFR 230)

Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, and bogs. (Source: 33 CFR 328)

B. Geographic Areas of Particular Concern (GAPC).

Direct and indirect impacts, resulting from the activity, to GAPC areas designated by the State of South Carolina will be considered during the review of activities proposed for authorization. For information regarding the location of GAPC sites contact the South Carolina Department of Health and Environmental Control (DHEC).

C. Compensatory Mitigation or Restoration Threshold.

When a PCN is required for a project and the overall project results in a cumulative net loss of aquatic functions for more than 0.10 acre of special aquatic sites, then a compensatory mitigation or restoration proposal should be submitted. Projects in this category which do not have such a plan included with the PCN will be considered inconsistent with State water quality standards and the State Coastal Zone Management Program, as applicable. The applicant may submit a written request to the Corps for a waiver of this requirement. Waiver requests must include reasons supporting the request. The Corps will consult with DHEC before making a determination on requests for waivers.

D. Compensatory Mitigation Compliance Report.

For approved mitigation proposals which include the following listed actions, the permittee must submit evidence to both the Corps of Engineers and DHEC when the mitigation action has been completed.

- Purchase of credits from a mitigation bank.
- Recording of deed restrictive covenants.
- Execution of conservation easements.

Such evidence must be submitted prior to commencement of the authorized activity or within 60 days of issuance of the authorization letter by the Corps of Engineers, whichever is later. Note that this reporting requirement is in addition to the permittee compliance certification requirements given by NWP General Condition #14.

E. Construction Best Management Practices (BMPs).

Unless specifically approved otherwise following review of a Pre-Construction Notification, these BMPs must be implemented, to the maximum degree practicable, in order to minimize erosion, migration of sediments, and adverse environmental impacts.

- Mulches, hay bales, silt fences, or other means must be employed to minimize erosion and migration of sediments during construction. Temporary measures must be removed upon project completion. Contact DHEC for information on suitable erosion control measures.
- Construction access shall be by means which avoid and minimize impacts to aquatic sites. Examples of such means include highland access, floating barges, and mats.
- All excess excavated materials must be properly contained and permanently stabilized to prevent erosion.

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- Upon project completion, impacted land surfaces must be permanently stabilized. Surfaces may be stabilized by restoring natural vegetation or by other approved methods.
- Upon project completion, impacted aquatic sites must be restored to their original contours and conditions.
- Upon project completion, impacted wetland sites greater than one-tenth (0.10) acre must be restored to a natural vegetated condition with native species.
- The bottom elevation of culverts placed in aquatic sites, including wetlands, must be at the same elevation as the aquatic area adjacent to the culvert. Culverts must be adequately designed, installed and maintained to prevent erosion and to provide passage for aquatic life and anadromous fishes occurring naturally in the vicinity of the culvert.

F. Regional Denials.

The following categories of activities are not authorized in South Carolina under the indicated nationwide permits.

NWP AFFECTED

CATEGORIES OF ACTIVITIES NOT AUTHORIZED

12	Impacts to Outstanding Resource Waters (ORW) or aquatic sites located adjacent to ORW areas.
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16	All uses of this NWP are denied in South Carolina.
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18	Impacts to Outstanding Resource Waters (ORW) or aquatic sites located adjacent to ORW areas.
19	Impacts to Outstanding Resource Waters (ORW) or aquatic sites located adjacent to ORW areas.
22	Impacts in areas of known or suspected sediment contamination.
23	Impacts in special aquatic sites.
26	<ul style="list-style-type: none"> • Construction of impoundments lasting more than one year in duration in streams and similar free flowing surface waterbodies. • In the Coastal Zone, impacts of any size to non-isolated aquatic sites are not authorized unless specifically approved following review by DHEC of a Pre-Construction Notification.
27	Reimpoundment of aquatic sites.
29	<ul style="list-style-type: none"> • Impacts to open water areas (e.g. ponds, lakes, rivers, oceans). • Impacts to Outstanding Resource Waters (ORW) or aquatic sites located adjacent to ORW areas. • Construction of impoundments lasting more than one year in duration. • Projects that have been master planned in accordance with DHEC-OCRM regulations and which are subject to approved mitigation restrictions (e.g. covenants, easements). • In the Coastal Zone, impacts to riverine or lacustrine wetlands.
31	<ul style="list-style-type: none"> • Impacts in areas of known or suspected sediment contamination. • Impacts to Outstanding Resource Waters (ORW) or aquatic sites located adjacent to ORW areas.
35	<ul style="list-style-type: none"> • Impacts in special aquatic sites. • Impacts in areas of known or suspected sediment contamination.

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REGIONAL SPECIAL CONDITIONS

The following Regional Special Conditions apply only to the specified nationwide permits.

7. *Outfall Structures.* Regional Conditions For South Carolina:

- a. The associated intake structure must employ the best practicable means, including siting, design, and technology (e.g. screening) to prevent entrainment or impingement of fish and other aquatic life.
- b. The inflow velocity of the associated intake structures must be limited to 0.5 ft/sec or less.
- c. The term "activities related to the construction of outfall structures" shall be interpreted to mean activities in the immediate vicinity of the outfall which are necessary to construct or operate the outfall (e.g. pump equipment, rip-rap, coffer dam). It shall not include ancillary activities such as construction of access roads, installation of utility lines leading to or from the outfall or intake structures, construction of buildings, distant activities, etc. Such ancillary activities must be reviewed separately (i.e. Individual Permit or other NWP categories).

12. *Utility Line Discharges.* Regional Conditions For South Carolina:

The following regional conditions do not apply to projects which take place within existing maintained utility line easements or roadways, or projects where the utility line construction is by means of directional boring.

- a. Impacts in aquatic sites must be minimized and corridor widths cannot exceed 50 feet, unless otherwise approved. Information will be required in the PCN to determine compliance with this condition.
- b. Utility lines may only cross one aquatic site, unless otherwise approved.
- c. Utility lines may only cross an aquatic site once, unless otherwise approved.
- d. Utility lines must have a crossing angle nearly perpendicular (90°) relative to the centerline of the aquatic site. Nearly perpendicular shall mean not more than a 10° deviation from perpendicular, unless otherwise approved.
- e. Projects which exceed or deviate from the above limitations will be considered inconsistent with State water quality standards and the State Coastal Zone Management Program, as applicable, unless specifically approved otherwise following review by DHEC of a Pre-Construction Notification.

13. *Bank Stabilization.* Regional Conditions For South Carolina:

That a PCN must be submitted for any bank stabilization activity in South Carolina that would be located adjacent to an authorized Federal Navigation project. These Federal navigation areas include Adams Creek, Savannah River, Jeremy and Town Creek at McClellanville, Village Creek at Beaufort, the Charleston Harbor Navigation Project (to include the federal navigation channels in Shipyard River, Wando River, Town Creek, and channels at the Naval Weapons Station), Georgetown Harbor, Little River Inlet, Murrells Inlet, Main Creek at Murrells Inlet, Port Royal Harbor, Waccamaw River, Shem Creek, and the Atlantic Intracoastal Waterway.

14. *Road Crossings.* Regional Conditions For South Carolina:

- a. Roads may only cross one aquatic site, unless otherwise approved.
- b. Roads may only cross an aquatic site once, unless otherwise approved.
- c. Projects which exceed or deviate from the above limitations will be considered inconsistent with State water quality standards and the State Coastal Zone Management Program, as applicable, unless specifically approved otherwise following review by DHEC of a Pre-Construction Notification.

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20. *Oil Spill Cleanup.* Regional Conditions For South Carolina:

That in the case of a spill, the South Carolina Department of Health and Environmental Control Emergency Response Team must be contacted immediately.

26. *Headwaters and Isolated Waters Discharges.* Regional Conditions For South Carolina:

- a. For the purpose of compliance with State requirements, in making an estimation of the size of an aquatic area, the overall aquatic area must be considered. Property boundaries or man-made obstructions, such as berms, roads, ditches, etc., shall not be used as wetland boundaries in estimating the size of an aquatic area.
- b. This nationwide permit may be used only once per project.
- c. The permittee must forward a copy to DHEC of reports to the Corps required for impacts less than 0.33 acre.

27. *Wetland and Riparian Restoration and Creation Activities.* Regional Conditions For South Carolina:

PCN's under this NWP which do not include the following listed information will be considered inconsistent with State water quality standards and the State Coastal Zone Management Program, as applicable.

- A restoration plan indicating the size and location of the areas to be restored.
- A narrative description of construction activities involved in the restoration program.
- A proposal for vegetation restoration.
- A description of actions expected to occur from the restoration.
- A management plan, if necessary, for the monitoring, operation, or maintenance of the restored area.

29. *Single-Family Housing.* Regional Conditions For South Carolina:

- a. An undisturbed buffer area of at least 50 feet minimal width must be preserved between the activity and any nearby open water areas. This buffer area may include uplands or wetlands, but may not include open water area.
- b. On-site disposal systems must be permitted by DHEC prior to their installation in a wetland area.

30. *Moist Soil Management for Wildlife.* Regional Conditions For South Carolina:

Impacts and work under this nationwide permit must be limited to:

- Activities taking place on existing, currently serviceable dikes.
- Work on existing, currently serviceable structures (e.g. water control structures).
- Activities within an existing, currently serviceable, functional impoundment.
- Activities undertaken to construct firebreaks for wildfire control and management.

32. *Completed Enforcement Actions.* Regional Conditions For South Carolina:

The Corps will consult with DHEC and provide DHEC an opportunity to review the project, before deciding on a final action or authorizing activities under this NWP.

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33. *Temporary Construction, Access and Dewatering.* Regional Conditions For South Carolina:

- a. The cumulative project impacts to aquatic sites, including wetlands, may not exceed 0.5 acres.
- b. All impacts must be limited to no more than one year in duration.

35. *Maintenance Dredging of Existing Basins.* Regional Conditions For South Carolina:

Maintenance dredging is limited to areas that are currently serviceable or recently damaged by discrete events. The terms "currently serviceable" and "recently damaged by discrete events" shall be applied in accordance with the usage of these terms found in NWP #3.

36. *Boat Ramps.* Regional Conditions For South Carolina:

- a. The width of the boat ramp must be limited to 12 feet.
- b. Only one boat ramp may be constructed on a single lot or tract of land (e.g. each lot within a subdivision).
- c. The ramp must be limited to single family recreational uses or non-commercial, non-profit, recreational uses.

38. *Cleanup of Hazardous and Toxic Waste.* Regional Conditions For South Carolina:

PCN's under this NWP which do not include the following listed information will be considered inconsistent with State water quality standards and the State Coastal Zone Management Program, as applicable.

- For restoration activities, a plan indicating the size and location of the areas to be restored.
- For restoration activities, a narrative description of the work involved in the restoration program.
- For restoration activities, a proposal for vegetation restoration.
- For restoration activities, a description of actions expected to occur from the restoration.
- For restoration activities, a plan for the monitoring, operation, or maintenance of the restored area.